

From: data-protection-office@google.com
Subject: Re: [7-2423000028191] Your Request to Google
Date: 14 November 2019 at 15:08
To: johnnyryan1@gmail.com



Hello,

Thank you for contacting us.

The [download your data](#) tool allows you to access your data at anytime, make a copy of it, back it up, or even move it to another service.

Our [Privacy Policy](#) helps you understand what information we collect, why we collect it, and how we keep it safe and secure, using clear language and descriptive videos. To find out why we collect your personal data please see this [section](#) of our Privacy Policy. To find out the legal basis on which we process your personal data please see this [section](#) of our Privacy Policy.

We're committed to being clear about what information we collect and how we use it. You can find additional details of our commitments in our [Privacy policy](#) and [Safety Center](#). You'll also get explanations of the types of information we collect, how it is collected, how it is used, when it is shared and your privacy controls.

If you want to see the majority of your data, sign in to your [Google Account](#) to get an overview of the ways you use Google's services, and the data associated with that use. Here are some other actions you can take:

- [Review your basic account information](#)
- [See what data is in your account](#)
- [Review how you share data with third-party apps and sites](#)

When you sign in to Google products or services, we can verify your right to get data and make sure that info is being shared with the right person. To find your account info when you're signed in, go to the top right, select your profile picture or username, and then choose **Privacy** or **Google Account**.

If you still need help, [fill out this form](#). This is Google's formal Article 15 subject access request form. On receipt our teams will process to ensure we get you the information you need.

Regards,
Google

On Tue, Oct 15, 2019 at 14:20 UTC lis-noreply@google.com wrote:

Hello,

Thanks for contacting us.

This is an automatic response to let you know that we have received your inquiry and will respond as soon as possible.

We treat requests via this form seriously and we review them in the order in which they are received.

Here's some additional help links you may find useful:

- [Help Center](#)
- [Privacy troubleshooter](#)
- [Help forums](#)

Thank you for your understanding and cooperation.

Regards,
Google

Contact Us Form

About which Google product are you inquiring?

Others

How can we help you?

Other

Email address

johnnyryan1@gmail.com

First name

Johnny

Last name

Ryan

Select your country of residence

Ireland

Describe your issue or request, and include as much detail as you can. (750 maximum characters allowed)

I have downloaded my data from Google's tool, but this does not tell me what you do with the data, or who you let access it.

I have downloaded my data from Google's tool, but this does not tell me what you do with the data, or who you let access it.

Looking at the GDPR, Article 15 says I have the right to know the purposes for which information are processed, and the legal basis for each purpose.

Please send this information. This request concerns all Google services.

Data Protection Office

Google

27 December 2019

By email: data-protection-office@google.com

Our ref: RAN/34314

Dear Sir / Madam

Dr Johnny Ryan

1. We are instructed by Dr Ryan ("our client") in relation to his Subject Access Request (SAR), to Google.
2. Our client is unsatisfied with the response to his SAR he has received from Google to date. Accordingly, we are instructed to request a fuller response from Google on the basis that:
 - i. The SAR response contained no information as to the purposes of processing.
 - ii. Further, the SAR response contained no information as to the lawful bases for the purposes of processing.
 - iii. The SAR response and the relevant Google policies do not contain sufficient information for our client to understand the purposes of processing or the lawful bases for processing. As such, Google have not complied with their legal obligations to provide meaningful transparency and to act fairly to our client.
3. We provide further details of these shortcoming below, as well as the remedial steps our client requests Google to take. We ask for your reply within 14 days of receipt of this letter.

I. Background

4. Our client initially completed your online “download my data” tool on 7 October 2019, which is said by Google to provide a full and complete response to a SAR. Following that SAR, Dr Ryan wrote to Google on 15 October 2019 via your online contact form¹ to address the shortcomings in the SAR response he received. Dr Ryan requested “the purposes for which information are processed, and the legal basis for each purpose”, information to which he is entitled under Article 15 of the General Data Protection Regulation (GDPR). Dr Ryan noted at the time that he had already used the “download my data” tool.
5. On 14 November 2019, the “data protection office” of Google wrote to our client providing generic information about how to use the “download my data” tool and how to use his Google account. No information about purposes or lawful bases was provided to our client. On 16 December 2019, our client filled in the “Data Access Request Form”, requesting to know the purposes of processing his data and the lawful basis for each purpose.
6. To date, Google have not provided any substantive response to our client’s request for information on purposes or lawful bases. No response was provided at all to our client’s request made on 16 December 2019.

II. Purpose and lawful basis

7. When Dr Ryan contacted Google about his SAR, he expressly requested information about “the purposes for which information are processed, and the legal basis for each purpose.” This has not been provided to date.
8. Although it is not clear from the information provided to our client in his SAR response, our client assumes that you are processing his data that has both been obtained from him and elsewhere. Accordingly, both Articles 13 and 14 GDPR apply to that information. Both of those Articles² state that a data subject must be given information about the purposes of processing, as well as the legal basis for the processing activities.
9. Further, Article 15 GDPR provides our client with a right of access to his personal data and information about “the purposes of the processing.”³ This right under Article 15 provides a

¹ Note that the form was not straightforward to locate and was related only to our client’s Google account

² Article 13(1)(c) and 14(1)(c) GDPR

³ Article 15(1)(a) GDPR

basis for our client to obtain this information from Google. Pursuant to Article 12(1) GDPR, that information must be provided in a “concise, transparent, intelligible and easily accessible form, using clear and plain language.”

10. To date, your response under Article 15 GDPR has not provided our client with any information about the purposes of processing his data. He is entitled to receive this information from you, in clear language. Any reference to your privacy policies would be misplaced (leaving aside the suitability of those policies, which are dealt with below) as our client is entitled to obtain this information from you.
11. For the avoidance of doubt, this request is not manifestly unfounded or excessive, as you must have retained a record of your processing activities pursuant to Article 30 GDPR. Presumably, you will also know the lawful basis for each processing activity. Accordingly, it would not be difficult for you to provide that same information to our client, as you are obliged to under Article 15 GDPR.
12. In order to comply with Article 15 GDPR, our client is entitled to the following information from you:
 - i. The purposes of processing his data, for each data set, and for all processing conducted; and
 - ii. The lawful basis for all processing.
13. Please provide this information within 14 days of receipt of this letter.

III. Transparency

14. In addition to filing his SAR, Dr Ryan has carefully considered your privacy policies in an attempt to establish the purpose of processing and the lawful bases. Unfortunately, that process has been difficult for our client owing to the deficiencies in your privacy policies.
15. As a primary matter, pursuant to Article 5(2) GDPR, the burden is on Google as the data controller to be able to demonstrate that our client’s personal data is processed in a transparent manner. This includes presenting information about personal data in a manner consistent with Article 12(1) GDPR: that the information be presented in a “concise, transparent, intelligible and easily accessible form, using clear and plain language.”

16. The Article 29 Working Party Guidance on Transparency⁴ explains the reasons for such transparency as follows:

the data subject should be able to determine in advance what the scope and consequences of the processing entails and that they should not be taken by surprise at a later point about the ways in which their personal data has been used. This is also an important aspect of the principle of fairness under Article 5.1 of the GDPR and indeed is linked to Recital 39 which states that “[n]atural persons should be made aware of risks, rules, safeguards and rights in relation to the processing of personal data...” In particular, for complex, technical or unexpected data processing, WP29’s position is that, as well as providing the prescribed information under Articles 13 and 14 (dealt with later in these guidelines), controllers should also separately spell out in unambiguous language what the most important consequences of the processing will be: in other words, what kind of effect will the specific processing described in a privacy statement/ notice actually have on a data subject?

17. In other words, a data subject should be able to understand how and why their data is being collected, used and processed. This includes clear information about the purposes of processing personal data. However, the language used in Google’s policies is insufficiently precise to meet your transparency requirements. The Article 29 Working Party Guidance on Transparency confirms that the requirements for “clear and plain language” under Article 12(1)(a) GDPR requires information to be provided in a way that is:

... concrete and definitive; it should not be phrased in abstract or ambivalent terms or leave room for different interpretations. In particular the purposes of, and legal basis for, processing the personal data should be clear.

18. The Guidance then provides examples of “poor practice” that would violate the requirements of Article 12(1)(a) GDPR. This includes the following examples of particularly poor practice:

- *“We may use your personal data to develop new services” (as it is unclear what the “services” are or how the data will help develop them); and*

⁴ Guidelines on transparency under Regulation 2016/679 (WP260 rev.01)

- *“We may use your personal data to offer personalised services” (as it is unclear what the “personalisation” entails).*

19. Despite this clear guidance from the Article 29 Working Party, regrettably Google have used this phraseology in their privacy policies. Using both examples from the Article 29 Working Party Guidance as a heading, the following examples emerge from the policies:

a. Develop new services

- i. In Google’s operative privacy policy (the Policy)⁵, under the heading “Why Google Collects Data” (i.e. the purposes), the lede of the Policy states “We use data to build better services”. The substantive part of the Policy states that Google “use your information to [make improvements](#) to our services”. Within the link to “make improvements”, Google explain that you “use cookies to analyze how people interact with our services. And that analysis can help us build better products.”
- ii. In the Guidance on “HOW GOOGLE USES INFORMATION FROM SITES OR APPS THAT USE OUR SERVICES”⁶ (i.e. from third part sites), it is said that “Google uses the information shared by sites and apps to deliver our services, maintain and improve them, develop new services, measure the effectiveness of advertising, protect against fraud and abuse, and personalize content and ads you see on Google and on our partners’ sites and apps.”

b. Offer personalised services

- i. In the Policy, a further lede states “Provide personalized services, including content and ads”. The substantive explanation asserts that Google “use[s] the information we collect to customize our services for you, including providing recommendations, personalized content, and [customized search results](#).” This is overlaid with an information box which states “you can get more relevant search results that are based on your previous searches and activity from other Google services. You can [learn more here](#). You may also get customized search results even when you’re signed out.” The “learn more here” section does not provide any further information or clarity and is therefore fruitless in attempting to understand the processing purposes.

⁵ <https://policies.google.com/privacy>

⁶ <https://policies.google.com/technologies/partner-sites?hl=en>

20. Thus, Google's policies (including the Policy) do not provide sufficient granularity for our client – or anyone – to understand the purposes of processing. Indeed, the language used replicates the bad practices examples given by the Article 29 Working Party. In turn, the policies do not provide the level of granularity required to enable Dr Ryan to know the purposes for which his data is being processed. Leaving aside your failure to provide this information to Dr Ryan in response to this SAR or follow up correspondence, these policies fall well short of the transparency required to provide to provide meaningful information to a data subject.
21. In addition, there are a number of policies related to the Google family of companies. The policies available online are broken up on seemingly arbitrary terms. There is a generic "Google Privacy Policy"⁷ but it is not said which services the generic policy relates. Furthermore, that generic policy also provides links to numerous other policies as "related privacy practices"⁸. Despite these numerous and seemingly bespoke policies, there is often an overlap between the policies, such as Chrome being referred to in the introduction of the generic policy but also having its own policy. This makes the policy almost impenetrable and far from meeting the requirements of Article 12(1)(a) GDPR.
22. Furthermore, there is no information on Google's policies that indicate the lawful basis for any of the stated processing activities. There are a few references to "choices" in pop up boxes but this is not a base under Article 6 nor does this term clarify the alternative bases for processing. In any event, there is no information about lawful bases provided alongside information on purposes, contrary to the requirements of Article 13(1)(c) and 14(1)(c).
23. Considering the numerous flaws identified above, Google have not treated Dr Ryan's data fairly and rather have acted in a manner contrary to Article 5(1)(a) GDPR.

IV. Next steps and deadline to reply

24. The information presented in your privacy policy falls short of what is required to meet your transparency obligations. Furthermore, your response to Dr Ryan's SAR has been inadequate and short of what he is entitled to.
25. Accordingly, our client asks for the following information:

⁷ <https://policies.google.com/privacy>

⁸ <https://policies.google.com/privacy#products>

- i. Provision of all of Dr Ryan's personal data you are processing, presented by categories of data;
- ii. The specific and legitimate purposes for processing, for each category of data; and
- iii. The lawful bases for processing each category of data for each individual purpose.

26. We ask that the information is provided in such terms as to be compliant with Article 12(1)(a) GDPR. In particular, it should be provided in a "concise, transparent, intelligible and easily accessible form". That information should be presented using "clear and plain language", such that the information is presented in a terms that are "concrete and definitive; it should not be phrased in abstract or ambivalent terms".

27. Please provide your response within 14 days of the date of receipt of this letter (by 10 January 2020). Should you not be able to meet that deadline, please explain so within 14 days and provide your reasons for the failure to meet this deadline, as well as a clear timeframe by which you will provide a substantive response. Our client's rights are reserved in the meantime.

We look forward to hearing from you.

Yours faithfully

Irvine Thanvi Natas Solicitors

Subject: RE: Dr Johnny Ryan (Our ref: RAN/34314)

Date: Friday, 10 January 2020 at 21:05:03 Greenwich Mean Time

From: data-protection-office@google.com

To: ravi@hayesnaikkind.com

Your ref: RAN/34314

Dear Sirs

We refer to your emails of 27 December 2019 and 9 January 2020. We are working on our response which we will provide to you as soon as possible. In the event we are not in a position to respond by the 16 January 2020 we will notify you in advance of that date.

Regards,
Google

On Thu, Jan 09, 2020 at 11:27 UTC "Ravi Naik" <rnaik@itnsolicitors.com> wrote:

Dear Sir / Madam

We write further to our letter of 27 December 2019. A copy of that letter is enclosed for ease of reference.

Our client had sought your response by tomorrow, 10 January 2020. We trust you are working to meet that deadline.

Please note however that I will be leaving ITN Solicitors tomorrow (10 January 2020). I will however continue to represent Dr Ryan from a new firm, HNK Litigation. I enclose an authority to act for Dr Ryan for HNK Litigation. I have also copied this email to my address at the new firm: ravi@hayesnaikkind.com. Please ensure any further correspondence or responses are copied to that address, as this ITN email address will no longer be active after 10 January.

I have copied this email to my new address for completeness.

Yours sincerely

Ravi Naik

Subject: Re: Dr Johnny Ryan (Our ref: RAN/34314)

Date: Friday, 17 January 2020 at 14:00:41 Greenwich Mean Time

From: Ravi Naik

To: data-protection-office@google.com

BCC: Johnny Ryan

Dear Sir / Madam

We write further to your email of 10 January 2020, as below. Despite setting your own arbitrary deadline to reply of 16 January 2020, that deadline has passed without any further response from you.

You will recall that our client filed his subject access request on 7 October 2019. On 27 December 2019, we wrote to you about your failure to adequately respond to that request. Our client now finds himself 102 days later without an adequate reply. Even allowing for the longstop envisaged under Article 12(3) of the GDPR, you are in breach of the requirements of Articles 12 and 15 of the GDPR.

Can you please therefore confirm when you intend to serve your response? If you do not intend to provide a further reply, please explain why not.

Our client requests your full and substantive reply by no later than 20 January 2020. In the event that you do not comply with our client's request by that date, our client reserves his right to take further action to enforce his rights without recourse to you.

Yours sincerely

Ravi Naik

Ravi Naik

Director | HNK Litigation

Tel: 07966143682

This email (including attachments) is confidential and may be privileged. If you have received this email in error, please notify HNK Litigation immediately. You may not copy, forward, disclose or otherwise use any part of it. It is the responsibility of the recipient to ensure that this email is virus free and no responsibility is accepted by HNK Litigation for any loss or damage arising in any way from receipt or use of it. Emails are susceptible to interference. The contents of this email may not have originated from HNK Litigation, or be accurately reproduced. If verification is required, please request a hard-copy version.

From: "data-protection-office@google.com" <data-protection-office@google.com>

Date: Friday, 10 January 2020 at 21:05

To: "ravi@hayesnaikkind.com" <ravi@hayesnaikkind.com>

Subject: RE: Dr Johnny Ryan (Our ref: RAN/34314)

Your ref: RAN/34314

Dear Sirs

We refer to your emails of 27 December 2019 and 9 January 2020. We are working on our response which we will provide to you as soon as possible. In the event we are not in a position to respond by the 16 January 2020 we will notify you in advance of that date.

Subject: Re: Dr Johnny Ryan (Our ref: RAN/34314)
Date: Monday, 20 January 2020 at 21:19:55 Greenwich Mean Time
From: data-protection-office@google.com
To: Ravi Naik

Dear Sirs

We refer to our email of January 10th 2020. As a preliminary point please note that we do not agree with your assertions regarding the alleged inadequacy of the Google privacy policy and Google privacy practices generally, and reserve our position accordingly.

Regarding your request for details of the purposes and associated legal bases of processing the Google [Privacy Policy](#) outlines different processing purposes pursued by Google and associated legal bases that legitimise those processing purposes. For example in the section "[Why Google collects data](#)" users can find information on the purposes of processing. The section "[European requirements](#)" details information on the legal grounds.

Google adopts a layered approach to transparency. This means that in addition to the [Privacy Policy](#), Google provides a [Google Account dashboard](#) from where users can manage privacy preferences and displays contextual pop-up notices which provide information to users at the most appropriate time when they interact with the services.

Depending on the products users use, there may be additional settings available via the user interface of the specific products. The overview section of our Privacy Policy contains a [Google Product Privacy Guide](#) (<https://www.google.com/policies/technologies/product-privacy/>), which provides users with an easily accessible resource for product-specific privacy information, controls and settings for many of Google's core consumer products, including Gmail, Google Search, Chrome, Google Maps, YouTube, Android, Google, Google Play and others.

In respect of your request for the "*provision of all of Dr Ryan's personal data you are processing, presented by categories of data*", we note your comment that Dr Ryan used the [Download Your Data](#) tool in October 2019 to access personal data processed by Google. If Dr Ryan is seeking to capture personal data generated since the date he last used the Download Your Data tool Dr Ryan can use that tool again. Facilitating data subjects remote access to their personal data is consistent with the recommendation under Recital 63 of the GDPR, that "*[w]here possible, the controller should be able to provide remote access to a secure system which would provide the data subject with direct access to his or her personal data.*"

If there is any further personal data Dr Ryan requires that he can't find via our tools, please advise him to submit a request for such further information using this [web-form](#) via the [Privacy Help Center](#) (<https://support.google.com/policies/troubleshooter/2990837?hl=en&rd=2>) (accessible via the "Contact Us" link in our [Privacy Policy](#)). Users must log-in to submit requests via this web-form, which will help us to verify their identity, and ensure we only disclose personal information directly to the appropriate data subject.

Regards

Google

On Fri, Jan 17, 2020 at 14:00 UTC "Ravi Naik" <ravi@hayesnaikkind.com> wrote:

Dear Sir / Madam

We write further to your email of 10 January 2020, as below. Despite setting your own arbitrary deadline to reply of 16 January 2020, that deadline has passed without any further response from you.

Subject: Fwd: [0-5331000028912]

Date: Monday, 20 January 2020 at 19:49:55 Greenwich Mean Time

From: Johnny RYAN

To: Johnny Ryan, Ravi Naik

----- Forwarded message -----

From: <data-access-requests@google.com>

Date: Mon 20 Jan 2020 at 16:44

Subject: [0-5331000028912]

To: <johnnyryan1@gmail.com>

Hello,

Thank you for contacting us.

As mentioned in our previous response the [Google Privacy Policy](#) outlines different processing purposes pursued by Google and associated legal bases that legitimise those processing purposes. For example in the section “[Why Google collects data](#)” you can find information on the purposes of processing. The section “[European requirements](#)” details information on the legal grounds.

Google adopts a layered approach to transparency. In addition to the [Privacy Policy](#), Google provides a [Google Account dashboard](#) from where you can manage your privacy preferences and displays contextual notices which provide information to users at the most appropriate time when users interact with the services.

Depending on the products you use, there may be additional settings available via the user interface of the specific products. The overview section of our Privacy Policy contains a [Google Product Privacy Guide](#) (<https://www.google.com/policies/technologies/product-privacy/>), which provides users with an easily accessible resource for product-specific privacy information, controls and settings for many of Google’s core consumer products, including Gmail, Google Search, Chrome, Google Maps, YouTube, Android, Google Play and others.

As users can utilise a variety of Google services, the processing purposes pursued and the related legal bases will vary by reference to the Google services associated with your account and your user settings. Given the large number of Google services associated with your account (an overview of which is available in your [Google Account dashboard](#)) please specify those services which you are referring to.

If you need to contact us in the future, send your replies to data-access-requests@google.com and make sure to include your reference number. Alternatively you can reply to this email.

Please confirm you are happy for us to share future correspondence with ravi@hayesnaikkind.com who has asserted is instructed by you.

Regards,
Google

Mon, Dec 16, 2019, 11:31 AM

johnnyryan1@gmail.com

Contact Us Form

Email address

johnnyryan1@gmail.com

Please select your country of residence

Ireland

About which Google product are you inquiring?

Other

What personal data are you seeking?

I have downloaded my data from Google's tool, but this does not tell me what you do with the data, or who you let access it.

Looking at the GDPR, Article 15 says I have the right to know the purposes for which information are processed, and the legal basis for each purpose.

Please send this information. This request concerns all Google services.

I have already made this request to Google on 15 October 2019, your reference 7-2423000028191. The 30 days allowed for response have elapsed long ago. Therefore I ask for your reply within 7 days of today, 16 December 2019.

--

Dr Johnny Ryan FRHistS

Twitter: <http://www.twitter.com/johnnyryan>

Praise for 'A History of the Internet and the Digital Future'

"Consider this book your road map" -Marc Benioff (CEO of Salesforce -

Forbes' most innovative company in the world 2013)

"An immensely important book" -Kevin O'Sullivan (Editor of The Irish Times)

"Engrossing" -Cory Doctorow (BoingBoing)

"Enormously useful" -Prof Tim Wu (Columbia Law School)

Data Protection Office

Google

By email: data-protection-office@google.com

28 January 2020

Our ref: RAN/00009-Ryan

LETTER BEFORE CLAIM

Dear Sir / Madam

Johnny Ryan – Subject access request

1. We write further to our correspondence relating to Dr Ryan's subject access request, as made to Google on 7 October 2019. Google have failed to:
 - i. adequately respond to that request from our client; and
 - ii. failed to provide our client with information relating to the collection of his data.
2. We are accordingly instructed to request that you provide a full and adequate response to that subject access request and the further information to which our client is entitled. Full details of our client's requests are set out below.
3. Please note that, in the absence of a satisfactory resolution of the issues raised in this letter, it is our client's intention to seek resolution of his subject access request through either issuing legal proceedings and / or a complaint before the Data Protection Commissioner (DPC). We trust that you agree that such a course would be regrettable and that you will instead provide our client with the remedies he has set out herein, which would avoid any further costs and time to either party.

4. Please provide your response to this letter within 14 days of receipt. If we do not hear from you by 11 February 2020, our client may issue proceedings and / or complain to the DPC without further recourse to you.

A. The proposed Claimant

5. Should further action become necessary, the proposed Claimant / Complainant would be Dr Johnny Ryan, who can be contacted at this office:

HNK Litigation
2 John Street
London
WC1N 2ES

6. You already have a copy of our client's authority form. Note that the authority form provides for our firm to receive disclosure of any relevant information or documentation requested in this letter before claim.

B. Proposed Defendant

7. Should the commencement of proceedings become necessary, we consider the proposed Defendant / Respondent in this matter to be Google Ireland, Gordon House, Barrow Street, Dublin, D04 E5W5, Dublin (Company number: 368047). Please confirm if these details are correct and whether any additional party should be named as a Defendant.

C. The Claimant's legal advisers

8. This case is being dealt with by Ravi Naik, a Director of this firm. Mr Naik can be contacted at the address set out above. The reference number for this case is RAN/00009-Ryan. Please ensure you use this reference number for all future correspondence on this matter.

D. Background

9. Our client initially completed your online “download my data” tool on 7 October 2019, which is said by Google to provide a full and complete response to a subject access request.
10. Following that SAR, Dr Ryan wrote to Google on 15 October 2019 via your online contact form¹ to address the shortcomings in the subject access request response he received. Dr Ryan requested “the purposes for which information are processed, and the legal basis for each purpose”, information to which he is entitled under Article 15 of the General Data Protection Regulation. In that contact form, Dr Ryan noted at the time that he had already used the “download my data” tool.
11. On 14 November 2019, the “data protection office” of Google wrote to our client providing generic information about how to use the “download my data” tool and how to use his Google account. No information about purposes or lawful bases was provided to our client. On 16 December 2019, our client filled in the “Data Access Request Form”, requesting to know the purposes of processing his data and the lawful basis for each purpose.
12. On 27 December 2019, our client wrote to you about the continuing failure to provide him with the information to which he was entitled. In particular, our client outlined information to which he is entitled, and which remained missing from your responses to date. That letter was from our client’s previous representatives, Irvine Thanvi Natas Solicitors. Our client sought your substantive reply by 10 January 2020.
13. On 10 January 2020, you replied stating that you required more time to provide a substantive response, stating “In the event we are not in a position to respond by the 16 January 2020 we will notify you in advance of that date.” You did not reply by 16 January 2020.

¹ Note that the form was not straightforward to locate and was related only to our client’s Google account

14. On 17 January 2020, our client wrote to you via this firm to request clarification of when you may provide the information to our client. On 20 January 2020, you replied to our client's letter of 27 December 2019. You did not provide any further information to our client as requested. Rather, you referred our client to a series of links on your website, including reference to your privacy policies. You further suggested that our client complete the "download your data" tool again.
15. Our client remains without substantive responses to the information he has sought from you four months ago.

E. Grounds

16. The information sought by our client was his personal data and he sought your clarification of the processing of his personal data. As such, the General Data Protection Regulation ("GDPR") and the Data Protection Act 2018 ("DPA") apply to the processing of that information. Google are a "data controller" and our client is a "data subject" under those regulations.
17. As the controller of our client's data, Google has not complied with the GDPR as you: (i) have not satisfied the requirements for information to be provided where personal data is collected relating to our client; (ii) have not complied with our client's subject access request; and (iii) have failed to demonstrate compliance with the principles of processing, contrary to the accountability principle. We address each violation in turn.
 - i. Transparency and information to be provided on collection of data
18. Articles 13 and 14 of the GDPR oblige data controllers to provide information to data subjects when collecting their data. Article 13 relates to information collected directly from the data subject, with Article 14 relating to personal data that have not been obtained from the data subject. Thus, whenever data is collected about a data subject, that data subject must be informed regardless of the source.

19. Further, pursuant to Articles 13(1)(c) and 14(1)(c) of the GDPR, a controller must provide a data subject with “the purposes of the processing for which the personal data are intended as well as the legal basis for the processing”. Thus, the purposes for processing personal data and related legal basis must be provided to our client, whether his personal data is collected directly from him or any other source.
20. These requirements are augmented by the requirements of Article 12(1) of the GDPR, which requires any information provided to a data subject to be presented in a “concise, transparent, intelligible and easily accessible form, using clear and plain language.” The Article 29 Working Party Guidance on Transparency² explains the requirements of transparency as follows:

the data subject should be able to determine in advance what the scope and consequences of the processing entails and that they should not be taken by surprise at a later point about the ways in which their personal data has been used. This is also an important aspect of the principle of fairness under Article 5.1 of the GDPR and indeed is linked to Recital 39 which states that “[n]atural persons should be made aware of risks, rules, safeguards and rights in relation to the processing of personal data...” In particular, for complex, technical or unexpected data processing, WP29’s position is that, as well as providing the prescribed information under Articles 13 and 14 (dealt with later in these guidelines), controllers should also separately spell out in unambiguous language what the most important consequences of the processing will be: in other words, what kind of effect will the specific processing described in a privacy statement/ notice actually have on a data subject?

21. Taken together, Article 12, 13 and 14 of the GDPR require that a data subject should be able to understand how and why their data is being collected, used and processed. Google have failed to comply with these requirements to date.

² Guidelines on transparency under Regulation 2016/679 (WP260 rev.01)

22. Our client has sought clarification of the purposes of processing and legal basis for each purpose, including his letter of 27 December 2019. In your email of 20 January 2020, you responded to those requests stating (sic):

Regarding your request for details of the purposes and associated legal bases of processing the Google [Privacy Policy](#) outlines different processing purposes pursued by Google and associated legal bases that legitimise those processing purposes. For example in the section [“Why Google collects data”](#) users can find information on the purposes of processing. The section [“European requirements”](#) details information on the legal grounds.

23. Your response thus pointed our client back to your Privacy Policy (herein referred to as “the Policy”). However, as detailed in our letter of 27 December 2019, that Policy is inadequate to satisfy the requirements of Articles 12(1), 13 and 14 of the GDPR. We set out the basis for those deficiencies in turn:

- a. Policy is incomplete:** The Policy (and the “why Google collects data” page) is limited to examples of purposes only. For instance, in the “develop new services” section of the Policy, you state

“We use the information we collect in existing services to help us develop new ones. For example, understanding how people organized their photos in Picasa, Google’s first photos app, helped us design and launch Google Photos.”

No further information is provided.

To take another instance (of which there are numerous), in the “Provide personalized services, including content and ads” section you state that you “may also show you personalized ads based on your interests.” The term “personalized ads” links to a further page, entitled “Why you’re seeing an ad”. No further information concerning the purposes of processing are provided on that page.

As these examples show, the Policy does not provide all the purposes of processing being undertaken by Google. At best, you give only indicative examples of the categories of processing being undertaken, rather than providing granular detail of each specific purpose of processing being undertaken. As the Policy is expressed in indicative terms only, there are further purposes that have not been disclosed. This alone renders the Policy incompatible with Articles 12, 13 and 14 of the GDPR.

- b. Policy is not transparent:** Further, the information provided in the Policy is insufficiently precise to provide meaningful transparency as required under Article 12(1)(a) of the GDPR. Our client outlined those deficiencies in his letter of 27 December 2019, which need not be rehearsed herein. In particular, our client drew on the Article 29 Working Party guidance on transparency to demonstrate that:

“Google’s policies (including the Policy) do not provide sufficient granularity for our client – or anyone – to understand the purposes of processing. Indeed, the language used [by Google] replicates the bad practices examples given by the Article 29 Working Party. In turn, the policies do not provide the level of granularity required to enable Dr Ryan to know the purposes for which his data is being processed.”

You have not replied to those submissions. Instead, you stated that “do not agree with your assertions regarding the alleged inadequacy of the Google privacy policy and Google privacy practices generally” yet provided no reasons for that assertion.

You then referred our client back to your Policy, despite our client’s letter of 27 December 2019 which showed that Policy to be inadequate. We have enclosed a copy of our client’s letter of 27 December 2019 for your ease of reference. That letter made clear that you had not satisfied the transparency requirements of the GDPR. You have not provided an adequate response to the matters raised in that letter and we request you to properly engage with that letter in your reply to this correspondence.

c. Failure to provide lawful bases: You have not provided lawful bases for each processing activity, to which our client is entitled under Articles 13 and 14 of the GDPR. Instead, in your email of 20 January 2020, you referred to the “European requirements” section of your website. That section of the Policy provides generic information about the lawful bases, rather than providing legal bases for specific purposes of processing. Indeed, on its own terms it is insufficient to explain the lawful basis for *each* purpose as the legal bases are provided on indicative terms only.

For instance, legitimate interests³ are cited as a legal basis for processing “things like”, with some examples then provided. Our client cannot – nor anyone looking at the Policy – fathom the purposes to which legitimate interests relate. In turn, he is unable to exercise his rights under the GDPR in full as he cannot appreciate the exact processing activities to which each lawful basis applies. He cannot therefore know how to object under Article 21(1) or seek erasure under Article 17(1)(c).

In summary, the Policy does not provide granularity of either the purpose of processing or the related legal basis for processing. As a result, a data subject cannot know which lawful basis applies to which processing activity and purpose. This is inappropriate and falls well below the Article 29 Working Party requirements for transparency.

d. Aggregating policies: There are a number of policies related to the Google family of companies. The policies available online are broken up on seemingly arbitrary terms. There is a generic “Google Privacy Policy”⁴ but it is not said which services the generic policy relates. Furthermore, that generic policy also provides links to numerous other policies as “related privacy practices”⁵.

³ Presumably under Article 6(1)(f) but this is not specified

⁴ <https://policies.google.com/privacy>

⁵ <https://policies.google.com/privacy#products>

Despite these numerous and seemingly bespoke policies, there is often an overlap between the policies, such as Chrome being referred to in the introduction of the Policy but also having its own policy. This makes the policy almost impenetrable and far from meeting the requirements of Article 12(1)(a) GDPR.

24. Accordingly, Google's Policies do not comply with the basic requirements of Articles 12, 13 and 14 of the GDPR. This is exemplified by the lack of information provided to our client following his subject access request.

- ii. Subject access request

25. Pursuant to Article 15(1) of the GDPR, our client is entitled to "obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed". Where personal data is being processed, our client is also entitled to know "the purposes of the processing", under Article 15(1)(a) of the GDPR.
26. Our client has sought clarity from Google about the specific purposes of the collection and processing of his data, including through his letter of 27 December 2019. Your response has been to continuously refer our client back to the Policy rather than engage with his requests. However, that Policy does not provide for all the purposes of processing of his personal data specifically. Rather, as dealt with above, the information provided is vague, incomplete and does not specify all processing purposes. Further, the information in the Policy does not relate to our client's specific data.
27. We note your reference to the "download your data" tool. However, that tool does not provide for any purposes of processing. As such, the purposes of processing our client's data have not been provided to him and are not available from the Policy or the tool.
28. In summary, our client is entitled to know each purpose for which his personal data is collected and processed. You have not provided that information to our client and the references and links you have provided do not provide that information.

Accordingly, you have not complied with Article 15 of the GDPR and Article 15(1)(a) in particular.

29. We further note that you have taken longer than the permitted time under Article 12(3) of the GDPR. That Article requires a subject access request to be satisfied “without undue delay and in any event within one month of receipt of the request.” That time period can be extended by 2 months “taking into account the complexity and number of the requests.” In this case, our client filed his subject access request on 7 October 2019. That SAR remains unsatisfied, some 112 days after the first request. Even allowing for the longstop, Google have breached Article 12(3).

iii. Breach of accountability principle

30. Article 5(2) of the GDPR requires a data controller to be able to “demonstrate compliance with” the principles relating to the processing of personal data. At present, Google cannot demonstrate that they are processing our client’s data fairly or in a transparent manner contrary to Article 5(1)(a) of the GDPR. In particular, refusing to explain the purposes of processing our client’s data, despite his numerous and clear requests for the same, is not transparent nor fair.
31. Further, you cannot demonstrate compliance with the purpose limitation principle contained in Article 5(1)(b) of the GDPR as you are not transparent with the purposes for which you process data. As detailed above, the purposes contained in the Policy are indicative only and incomplete. Accordingly, you cannot demonstrate compliance with the purpose limitation principle as you do not have a transparent and open list of purposes available.
32. Thus, Google cannot demonstrate compliance with either Article 5(1)(a) or 5(1)(b) of the GDPR, in breach of Article 5(2).

F. The details of the action that the Defendants are expected to take

33. Considering the matters raised above, our client requests Google to take the following steps:

1. Please provide a detailed list of all purposes of processing of our client's data. To be clear, our client requires confirmation of all processing purposes, whether at the point of collection or subsequent collection, or whether from our client or a third party. The Policy is not sufficient to meet these requirements, as detailed above. Our client requests this information in "a concise, transparent, intelligible and easily accessible form, using clear and plain language" pursuant to Article 12(1) of the GDPR. We would suggest that you provide this information in tabular form, in either an Excel or CVS spreadsheet.
2. Provide the legal basis for each processing activity, by reference to each specified purpose. We suggest that the lawful basis is included in a separate column in the purposes spreadsheet, to ensure consistency with the Article 12(1) requirements.
3. Provide our client with a full, complete and up to date subject access request response. Referencing the download your data tool has been shown to be inadequate to date, as it has not met the requirements of Article 15 of the GDPR.
34. Our client is entitled to this information at a minimum. If you refute that our client is entitled to this information, please provide your detailed reasons for that refusal with specific reference to the legal reasoning for your position. We note that you had reserved your position in your email of 20 January 2020. It is not appropriate to continue to reserve your position. If you have a basis to refuse our client's requests, you should make that basis clear and explicit so that our client can understand and appreciate the reasons for your continued non-compliance.

G. Address for Reply

35. The address for the letter of reply, as well as the service of any documents, is HNK Litigation, 2 John Street, WC1N 2ES. We do not accept formal service of documents by email but are content to accept routine correspondence by email, including your letter of reply.

H. Date for reply

36. Please provide your reply to this letter within 14 days. Given the inordinate delay in complying with our client's subject access request, 14 days is a generous timeframe for you to provide the remedies our client has sought. We accordingly look forward to receiving your full and substantive response by 11 February 2020.
37. To be clear and to avoid further doubt, our client will rely on this correspondence in any further action he may be required to take to enforce his rights. However, we trust that such further action will not be necessary, and you will instead comply with his requests in full.

We look forward to hearing from you.

Yours faithfully

HNK Litigation

Subject: Your reference RAN/00009-Ryan
Date: Tuesday, 11 February 2020 at 22:46:01 Greenwich Mean Time
From: data-protection-office@google.com
To: Ravi Naik

Dear Sirs,

We refer to your correspondence of 28 January 2020.

As a preliminary point please note that we do not agree with your assertions regarding the alleged inadequacy of the Google privacy policy and Google privacy practices generally, and reserve our position accordingly.

In your correspondence of 28 January 2020, you requested on behalf of your client, information regarding the purposes for which Google processes your client's data, the legal basis for such processing as well as a subject access request response. These requests for information were made with reference to previous requests for information made through a Google account. We note your request to be provided with that information directly. However, please note that we are unable to verify the identity of a data subject in relation to a Google account outside of the relevant account (Articles 11(2) and 12(2) GDPR). Accordingly, we have provided additional information in response to the previous requests you referred to directly to the owner of that account by sending an email to that account.

Yours faithfully,

Google

On Mon, Jan 20, 2020 at 21:19 UTC data-protection-office@google.com wrote:

Dear Sirs

We refer to our email of January 10th 2020. As a preliminary point please note that we do not agree with your assertions regarding the alleged inadequacy of the Google privacy policy and Google privacy practices generally, and reserve our position accordingly.

Regarding your request for details of the purposes and associated legal bases of processing the Google [Privacy Policy](#) outlines different processing purposes pursued by Google and associated legal bases that legitimise those processing purposes. For example in the section "[Why Google collects data](#)" users can find information on the purposes of processing. The section "[European requirements](#)" details information on the legal grounds.

Google adopts a layered approach to transparency. This means that in addition to the [Privacy Policy](#), Google provides a [Google Account dashboard](#) from where users can manage privacy preferences and displays contextual pop-up notices which provide information to users at the most appropriate time when they interact with the services.

Depending on the products users use, there may be additional settings available via the user interface of the specific products. The overview section of our Privacy Policy contains a [Google Product Privacy Guide](#) (<https://www.google.com/policies/technologies/product-privacy/>), which provides users with an easily accessible resource for product-specific privacy information, controls and settings for many of Google's core consumer products, including Gmail, Google Search, Chrome, Google Maps, YouTube, Android, Google, Google Play and others.

In respect of your request for the "*provision of all of Dr Ryan's personal data you are processing, presented by categories of data*", we note your comment that Dr Ryan used the [Download Your Data](#) tool in October 2019 to access personal data processed by Google. If Dr Ryan is seeking to capture personal data generated since the date he last used the Download Your Data tool Dr Ryan can use that tool again. Facilitating data subjects remote access to their personal data is consistent with the recommendation under Recital 63 of the GDPR, that "*[w]here possible, the controller should be able to provide remote access to a secure system which would*

provide the data subject with direct access to his or her personal data."

If there is any further personal data Dr Ryan requires that he can't find via our tools, please advise him to submit a request for such further information using this [web-form](https://support.google.com/policies/troubleshooter/2990837?hl=en&rd=2) via the [Privacy Help Center](#) (<https://support.google.com/policies/troubleshooter/2990837?hl=en&rd=2>) (accessible via the "Contact Us" link in our [Privacy Policy](#)). Users must log-in to submit requests via this web-form, which will help us to verify their identity, and ensure we only disclose personal information directly to the appropriate data subject.

Regards

Google

On Fri, Jan 17, 2020 at 14:00 UTC "Ravi Naik" <ravi@hayesnaikkind.com> wrote:

Dear Sir / Madam

We write further to your email of 10 January 2020, as below. Despite setting your own arbitrary deadline to reply of 16 January 2020, that deadline has passed without any further response from you.

You will recall that our client filed his subject access request on 7 October 2019. On 27 December 2019, we wrote to you about your failure to adequately respond to that request. Our client now finds himself 102 days later without an adequate reply. Even allowing for the longstop envisaged under Article 12(3) of the GDPR, you are in breach of the requirements of Articles 12 and 15 of the GDPR.

Can you please therefore confirm when you intend to serve your response? If you do not intend to provide a further reply, please explain why not.

Our client requests your full and substantive reply by no later than 20 January 2020. In the event that you do not comply with our client's request by that date, our client reserves his right to take further action to enforce his rights without recourse to you.

Yours sincerely

Ravi Naik

Ravi Naik

Director | HNK Litigation

Tel: 07966143682

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From: "data-protection-office@google.com" <data-protection-office@google.com>
Date: Friday, 10 January 2020 at 21:05
To: "ravi@hayesnaikkind.com" <ravi@hayesnaikkind.com>
Subject: RE: Dr Johnny Ryan (Our ref: RAN/34314)

Your ref: RAN/34314

Dear Sirs

We refer to your emails of 27 December 2019 and 9 January 2020. We are working on our response which we will provide to you as soon as possible. In the event we are not in a position to respond by the 16 January 2020 we will notify you in advance of that date.

Regards,
Google

On Thu, Jan 09, 2020 at 11:27 UTC "Ravi Naik" <rnaik@itnsolicitors.com> wrote:

Dear Sir / Madam

We write further to our letter of 27 December 2019. A copy of that letter is enclosed for ease of reference.

Our client had sought your response by tomorrow, 10 January 2020. We trust you are working to meet that deadline.

Please note however that I will be leaving ITN Solicitors tomorrow (10 January 2020). I will however continue to represent Dr Ryan from a new firm, HNK Litigation. I enclose an authority to act for Dr Ryan for HNK Litigation. I have also copied this email to my address at the new firm: ravi@hayesnaikkind.com. Please ensure any further correspondence or responses are copied to that address, as this ITN email address will no longer be active after 10 January.

I have copied this email to my new address for completeness.

Yours sincerely

Subject: Fwd: [0-5331000028912]

Date: Tuesday, 11 February 2020 at 23:09:32 Greenwich Mean Time

From: Johnny Ryan

To: Ravi Naik, Johnny Ryan

--

Dr Johnny Ryan FRHistS

Twitter: <http://www.twitter.com/johnnyryan>

Praise for 'A History of the Internet and the Digital Future'

"Consider this book your road map" -Marc Benioff (CEO of Salesforce - Forbes' most innovative company in the world 2013)

"An immensely important book" -Kevin O'Sullivan (Editor of The Irish Times)

"Engrossing" -Cory Doctorow (BoingBoing)

"Enormously useful" -Prof Tim Wu (Columbia Law School)

Begin forwarded message:

From: data-access-requests@google.com

Date: 11 February 2020 at 22:54:40 GMT

To: johnnyryan1@gmail.com

Subject: Re: [0-5331000028912]

Hello,

We received correspondence from Mr. Ravi Naik, from HNK Litigation, London (ravi@hayesnaikkind.com) referring to previous correspondence you had with us in this matter through this account. Mr. Naik states that he acts on behalf of his client Johnny Ryan and requests information of the purposes for which Google processes his client's data, the legal basis for such processing as well as a subject access request response. Please note that we are not in a position to verify the identity of a data subject in relation to a Google account outside of the relevant account (see Articles 11(2) and 12(2) GDPR). Accordingly, we are providing additional information in response to Mr. Naik's request directly to you as the owner of the account. Please inform us in case Mr. Naik has not been instructed by you to request information related to this account.

We note your comment that you previously used the download your data tool to download copies of data for certain services. Mr. Naik has requested that we provide related information in addition to the data received through that tool.

Legal Bases

Regarding the request for the legal bases associated with the processing purposes in the context of those Google services, you can find information on the legal grounds relied upon to legitimize processing in the section "[European requirements](#)" of the Google Privacy Policy. This information is provided in line with Art. 13 and 14 GDPR. Please note Article 15(1) of the GDPR does not require a controller to detail those legal bases.

Processing Purposes

The purposes for which data may be processed in the context of those Google services include the

purposes detailed in the Appendix. All of the processing purposes are detailed in the [Google Privacy Policy](#).

Relying on the Google Privacy Policy to detail the processing purposes in response to an Article 15 request is the most appropriate way to provide such details in line with the requirements of Art 12(1) GDPR, particularly the requirements to provide such information in a concise and easily accessible form, given that a Google account can be used by any user to use any combination of all of the varied services available through that account, all of which are interactive and are used differently and with different settings and through different surfaces by each user from time to time over the lifespan of an account.

Regards

Google

Appendix

Provide our services - We use your information to deliver our services, like processing the terms you search for in order to return results or helping you share content by suggesting recipients from your contacts.

Maintain & improve our services - We use your information to ensure our services are working as intended, such as tracking outages or troubleshooting issues that you report to us. And we use your information to make improvements to our services — for example, understanding which search terms are most frequently misspelled helps us improve spell-check features used across our services.

Develop new services - We use the information we collect in existing services to help us develop new ones. For example, understanding how people organized their photos in Picasa, Google's first photos app, helped us design and launch Google Photos.

Provide personalized services, including content and ads - We use the information we collect to customize our services for you, including providing recommendations, personalized content, and customized search results. For example, Security Checkup provides security tips adapted to how you use Google products. And Google Play uses information like apps you've already installed and videos you've watched on YouTube to suggest new apps you might like.

Depending on your settings, we may also show you personalized ads based on your interests. For example, if you search for "mountain bikes," you may see an ad for sports equipment when you're browsing a site that shows ads served by Google. You can control what information we use to show you ads by visiting your ad settings.

Measure performance - We use data for analytics and measurement to understand how our services are used. For example, we analyze data about your visits to our sites to do things like optimize product design. And we also use data about the ads you interact with to help advertisers understand the performance of their ad campaigns. We use a variety of tools to do this, including Google Analytics. When you visit sites that use Google Analytics, Google and a Google Analytics customer may link information about your activity from that site with activity from other sites that use our ad services.

Communicate with you - We use information we collect, like your email address, to interact with you directly. For example, we may send you a notification if we detect suspicious activity, like an attempt to sign in to your Google Account from an unusual location. Or we may let you know about upcoming changes or improvements to our services. And if you contact Google, we'll keep a record of your request in order to help solve any issues you might be facing.

Protect Google, our users, and the public - We use information to help improve the safety and reliability of our services. This includes detecting, preventing, and responding to fraud, abuse,

security risks, and technical issues that could harm Google, our users, or the public.

On Mon, Jan 20, 2020 at 16:44 UTC data-access-requests@google.com wrote:

Hello,

Thank you for contacting us.

As mentioned in our previous response the [Google Privacy Policy](#) outlines different processing purposes pursued by Google and associated legal bases that legitimise those processing purposes. For example in the section "[Why Google collects data](#)" you can find information on the purposes of processing. The section "[European requirements](#)" details information on the legal grounds.

Google adopts a layered approach to transparency. In addition to the [Privacy Policy](#), Google provides a [Google Account dashboard](#) from where you can manage your privacy preferences and displays contextual notices which provide information to users at the most appropriate time when users interact with the services.

Depending on the products you use, there may be additional settings available via the user interface of the specific products. The overview section of our Privacy Policy contains a [Google Product Privacy Guide](#) (<https://www.google.com/policies/technologies/product-privacy/>), which provides users with an easily accessible resource for product-specific privacy information, controls and settings for many of Google's core consumer products, including Gmail, Google Search, Chrome, Google Maps, YouTube, Android, Google Play and others.

As users can utilise a variety of Google services, the processing purposes pursued and the related legal bases will vary by reference to the Google services associated with your account and your user settings. Given the large number of Google services associated with your account (an overview of which is available in your [Google Account dashboard](#)) please specify those services which you are referring to.

If you need to contact us in the future, send your replies to data-access-requests@google.com and make sure to include your reference number. Alternatively you can reply to this email.

Please confirm you are happy for us to share future correspondence with ravi@hayesnaikkind.com who has asserted is instructed by you.

Regards,
Google

Mon, Dec 16, 2019, 11:31 AM

johnnyryan1@gmail.com

Contact Us Form

Email address

johnnyryan1@gmail.com

Please select your country of residence

Ireland

About which Google product are you inquiring?

Other

What personal data are you seeking?

I have downloaded my data from Google's tool, but this does not tell me what you do with the data, or who you let access it.

Looking at the GDPR, Article 15 says I have the right to know the purposes for which information are processed, and the legal basis for each purpose.

Please send this information. This request concerns all Google services.

I have already made this request to Google on 15 October 2019, your reference 7-2423000028191. The 30 days allowed for response have elapsed long ago. Therefore I ask for your reply within 7 days of today, 16 December 2019.

Data Protection Office

Google

By email: data-protection-office@google.com

13 February 2020

Our ref: RAN/00009-Ryan

Dear Sir / Madam

Dr Johnny Ryan

1. We write further to our letter before claim of 28 January 2020 and your responses of 11 February 2020. We enclose a copy of our letter of 28 January 2020 for ease of reference.
2. As set out in our letter of 28 January 2020, this matter has been ongoing for a number of months with our client first making requests to Google on 7 October 2019 (130 days ago, at the time of writing). Regrettably and despite that long history, your responses have not adequately or appropriately addressed any of the matters raised in our letter of 28 January 2020 or the prior correspondence from Dr Ryan. In particular:
 - i. You have for the second time stated that you “do not agree with [our] assertions regarding the alleged inadequacy of the Google privacy policy and Google privacy practices generally”. However, you have not explained why you do not agree despite being expressly asked to do so. This is unacceptable, particularly in light of our client’s proposed further action.

- ii. You have reiterated that you “reserve your position” but have not explained why you are reserving that position or what the trigger would be for you to explain your position. We presume that you are reserving that position for any further proceedings, but our client has made clear that he intends to seek redress from elsewhere if you continue to fail to engage with his requests. It would therefore be appropriate for you to explain your position now, if you are able to. Indeed, it is striking and curious that you have been unable to defend any allegation put you. If you have a cogent and proper response, you should provide it.
- iii. The substantive response provided to our client on legal bases stated “you can find information on the legal grounds relied upon to legitimize processing in the section [“European requirements”](#) of the Google Privacy Policy.” As our client laid out in detail in his letter of 28 January 2020, this is not correct. Google’s Privacy Policy is defective and does not comply with the GDPR as it does explain the lawful base for each processing purpose. This is a basic failure to comply with the GDPR, which our client sought you to rectify through his correspondence. Instead, you referred him back to the very policy that he was complaining about. Your reasoning is circular and unsustainable.
- iv. You state “All of the processing purposes are detailed in the [Google Privacy Policy](#).” As set out in exhaustive detail in our letter of 28 January 2020, the Google Privacy Policy does not provide sufficient information on processing purposes. In particular, the Google Privacy Policy is so defective as to replicate the “poor practice” examples of a policy set out by the Article 29 Working Party¹ (as it was then called). Despite Dr Ryan instructing lawyers to raise these matters with you on three separate occasions over the last three months, you have not sought to rectify this deficiency but continually refer our client back to your flawed Privacy Policy. Again, this is circular reasoning and does not address our client’s concerns. You have simply not provided any further detail to our client.

¹ *Guidelines on Transparency under Regulation 2016/679* (WP260 rev.01) (available at: https://ec.europa.eu/newsroom/article29/item-detail.cfm?item_id=622227)

3. In sum, you continue to fail to (1) comply with your transparency requirements under the GDPR and (2) satisfy our client's subject access requests. Our client has been more than indulgent to you in order to receive these answers, only to be met with defective and deficient responses from you at every stage. Your responses to date have been circular and deliberately obtrusive. It is notable that Google have not put forward any defence to the matters raised by our client and you have instead referred our client back to the very policies and tools that have given rise to our client's clearly articulated concerns. We presume that if you had a defence and appropriate reply, you would have provided the same by now. Your attempts to "reserve your position" to this end are flawed and not an appropriate response to the correspondence sent to date. Google is not above the law and you are strongly urged to seek legal advice about the matters raised in this letter and our letter of 28 January 2020.
4. To be clear, if you cannot provide adequate and appropriate responses, our client intends to seek redress for these matters through a regulatory complaint and / or court proceedings.
5. Our client is committed to dealing with this matter cooperatively, if possible. Accordingly, and in a final attempt to deal with this matter through correspondence, our client requests your full and substantive response to his letter before claim of 28 January 2020 within 5 days of this letter. A copy of that letter is enclosed for ease of reference.
6. In the event that you continue to fail to engage with those requests, our client will take appropriate steps to enforce his rights without further recourse to you. We hope that instead you will take this matter seriously and provide our client with a full and adequate response to the letter of 28 January 2020. Please provide your response by 18 February 2020, failing which our client will be forced to seek redress from supervisory authorities and / or the courts.

7. You will note that this correspondence and your wilful disregard of your legal obligations will be a central consideration of any further steps that our client is required to take. Your conduct will also be used when determining costs, should any further proceedings be necessary.

We look forward to hearing from you.

Yours faithfully

HNK Litigation

Subject: Re: Your reference RAN/00009-Ryan

Date: Friday, 21 February 2020 at 18:16:37 Greenwich Mean Time

From: data-protection-office@google.com

To: Ravi Naik

Dear Sirs

We refer to your correspondence of 13 and 19 February 2020.

We do not agree with your assertions regarding the alleged inadequacy of the Google privacy policy and Google privacy practices generally, and reserve our position accordingly.

Yours faithfully

Google

On Wed, Feb 19, 2020 at 09:29 UTC "Ravi Naik" <ravi@awo.legal> wrote:

Dear Sir / Madam

We write further to our letter of 13 January 2020, as enclosed for your ease of reference.

We have not received any response from you to that correspondence. We take your failure to respond as a concession that you have no answer to the matters raised in our client's correspondence. We are accordingly instructed to take matters further and will rely on your failure to respond as acceptance that you have no defence to our client's concerns.

Yours sincerely

Ravi Naik

Ravi Naik

Director | AWO

Tel: 07966143682

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Subject: Re: Your reference RAN/00009-Ryan
Date: Monday, 24 February 2020 at 10:31:36 Greenwich Mean Time
From: Ravi Naik
To: data-protection-office@google.com
BCC: Johnny Ryan

Dear Sir / Madam

We note your response below and that you "reserve [your] position".

We have asked you on several occasions to explain why you disagree with our client's concerns. You have failed to do so. We have also repeatedly asked you to explain what event you are reserving your position for. You have again failed to do so. We assume you have failed to engage as you have no defence to our client's concerns and claims.

Your responses to date have been inadequate and you have wilfully disregarded our client's reasonable requests.

Our client has tried to cooperate with you and seek your position through correspondence, which you have consistently failed to provide. Given your conduct to date, we do not envisage receiving any substantive or pragmatic response from you. In these circumstances, you leave our client with no alternative option than to seek redress from elsewhere. We will of course rely on our correspondence when considering your conduct and position to date.

Yours sincerely

Ravi Naik

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Director | AWO

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From: "data-protection-office@google.com" <data-protection-office@google.com>
Date: Friday, 21 February 2020 at 18:16
To: Ravi Naik <ravi@awo.legal>
Subject: Re: Your reference RAN/00009-Ryan

Dear Sirs

We refer to your correspondence of 13 and 19 February 2020.

We do not agree with your assertions regarding the alleged inadequacy of the Google privacy policy and Google privacy practices generally, and reserve our position accordingly.

Yours faithfully

Google